

## Influential Women In IP Law: Sarah Chapin Columbia

By **Bill Donahue**

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McDermott Will & Emery LLP's veteran litigator Sarah Chapin Columbia has translated her brand of courtroom storytelling into an impressive run of recent patent success on behalf of clients like Citrix Systems Inc., BlackBerry Ltd. and Novartis Vaccines & Diagnostics Inc., earning her a spot among Law360's Most Influential Women In IP Law.

Columbia, who heads the intellectual property litigation group at McDermott, has now been working patent law for close to two decades, but she originally started out as a general commercial litigator. While she's obviously an elite legal mind — she has a master's in public policy from Harvard's Kennedy School of Government and her law degree from Harvard Law School — she doesn't come from the standard-issue technical, engineering background.



Sarah Chapin Columbia

That means on highly complicated technical matters, she's learning many of the issues the same way the judge and jurors will have to. Or, in her own words, she knows “exactly how hard it is for them to understand and organize some of these concepts” — and how important it is for her to explain it to them.

“I've come at the practice as a trial lawyer,” Columbia told Law360. “I believe very strongly that the lead trial lawyer has to understand the technical issues, but at the end of the day my job is to win.”

“To win, you have to be able to tell a story to a judge and a jury that makes them want you to win.”

And win she has.

Take the case she handled a couple of years back, after a company called Pixion Inc. sued Citrix Systems over its flagship GoToMeeting videoconferencing service. The patents-in-suit dealt with some of the key features of GoToMeeting and the claims spanned back to 1996 — meaning many millions of dollars could be at stake.

Attacking the validity of Pixion's patents, Columbia and her team found what she called “killer prior art” in the form of an early videoconferencing system created by a Cornell University professor before Pixion's patents were registered. But even with such a great find, courts rarely grant summary judgment on invalidity, Columbia said.

“We really had to package it up for Judge [Susan] Illston and tie every detail down. She's a real stickler,” Columbia said.

The way they packaged it worked. Judge Illston granted Citrix summary judgment on the grounds that the Cornell creation, called CU-SeeMe, disclosed all of the elements of the Pixion asserted claims.

The lesson on display — that distilling evidence into a digestible presentation isn't important just with juries, but also with judges, who are obviously highly intelligent but not necessarily electrical engineers or patent specialists — is something Columbia learned early on.

Years ago, listening to a panel of judges discuss patent law, Columbia heard the moderator ask the jurists what drove them crazy while handling complicated patent cases. One after another, it was when attorneys would paint a clean picture for jurors — and dump evidence on judges.

“They go, 'When you talk to a jury, you have all these pictures and PowerPoint and charts, but when you to talk to me, you just hand me a mountain of paper and expect me to figure it out,'" Columbia recalled. “That was really eye-opening.”

That focus on presenting a simple, understandable case was one of the first things Citrix associate general counsel Robert N. Feldman mentioned about Columbia's work for his company on the Pixion case.

“One of her strengths that really stands out is her ability to not only understand the complicated technical arguments, but also explain them to the average juror, to the average district judge,” Feldman said.

The same went for Columbia's more recent work on behalf of BlackBerry, like a case in which nonpracticing entity Innovative Sonic Ltd. accused the smartphone maker of infringing three patents.

Columbia's team pushed a traditional noninfringement argument but, along with white collar defense litigator Russ Hayman, also dug into the various transactions through which Innovative Sonic had put together its patent portfolio, questioning whether the company could claim to be the legitimate owner.

A year later, Columbia took on another case for BlackBerry, this one from Dutch semiconductor company NXP BV. Again, they described a “business story” to the court, pushing the idea that the Dutch firm had been using litigation as a way to pressure BlackBerry into purchasing more of its products.

In the first case, Innovative Sonic agreed to a settlement after a 10-day jury trial; in the second, a jury found NXP's patents were not infringed and invalid.

“Rather than just go through the cookie-cutter defenses, in every case we handle we really try to go beyond that,” Columbia said. “What's the story? Who are the good guys, and who are the bad guys?”

Those tactics seem to be working in the pharma space, too. In 2012, Columbia won a jury verdict that

Seikagaku Corp. wasn't infringing Genzyme Corp.'s patent for osteoarthritis knee pain treatment Synvisc-On. Two years before that, she won a bench trial affirming that Novartis Vaccines & Diagnostics had priority to a vaccine against alphavirus-caused diseases.

Columbia recalls one trial in which the jury heard two days of direct examination of the opposing side's expert witnesses about mind-meltingly complex issues related to half-life — “heavy-duty math, sophisticated calculus,” as she put it.

When it came time for cross-examination — in which she was trying to prove a point about a drop in mathematical value — she used a clear box filled with 20 ping-pong balls. She put it on the table in front of the jurors, and pulled two out to make her point.

“Obviously the case came down to a lot more than how many ping-pong balls were in that glass container,” Columbia said. “But it really enabled me to get the jury to see that “oh, she's going to help us understand.”

--Editing by Kat Laskowski and Andrew Park.

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